

LEGAL SERVICES CORPORATION

BOARD OF DIRECTORS



SEMIANNUAL REPORT TO THE CONGRESS

FOR THE PERIOD

OCTOBER 1, 2002 – MARCH 31, 2003

MAY 31, 2003

FOREWORD

I am pleased to transmit the Semiannual Report of the Legal Services Corporation (“LSC” or “Corporation”) Board of Directors (“Board”), providing comments on the Semiannual Report of LSC’s Office of Inspector General (“OIG”) for the six-month period of October 1, 2002, through March 31, 2003, and providing further explanation of LSC’s activities during the reporting period.

LSC’s Board recognizes the value of the Inspector General function and remains committed to working with the OIG to achieve our goal of providing high quality legal assistance to the poor of our nation.

Frank B. Strickland, Chairman
Legal Services Corporation
May 31, 2003

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MESSAGE OF THE BOARD OF DIRECTORS

Shortly after the close of the reporting period, during the fourth week of April 2003, eight new Board members appointed by President Bush were sworn into office. The new Board members are Lillian R. BeVier of Virginia, Robert J. Dieter of Colorado, Thomas A. Fuentes of California, Herbert S. Garten of Maryland, Michael McKay of Washington, Thomas R. Meites of Illinois, Frank B. Strickland of Georgia, and Florentino Subia of Texas. Board members John Broderick, Maria Luisa Mercado and Ernestine Watlington, appointed by President Clinton in 1993, continue to serve on the Board.

The Board is pleased to have the opportunity to address the Congress and share its perspective on the current state of federally-funded legal services for low-income Americans. LSC is in the fourth year of implementation of its Strategic Directions 2000-2005, the principal goals of which are to increase access to justice and improve the quality of civil legal assistance on behalf of the needy and less fortunate. While LSC and its grantees continue their undertaking to maximize the cost-effective use of limited federal resources and to leverage those resources to raise funds from state and local governments, foundations and private sources, the significant unmet need for civil legal assistance in the United States reminds us starkly that we are far from achieving our national commitment of "equal justice for all."

LSC made continued progress in its State Planning Initiative during the reporting period. Over the past six months, LSC approved structural changes in four (4) states in order to develop more effective and economical legal services delivery systems.¹ The consolidation of service areas and programs² in these states has been designed to maximize economies of scale, evenly distribute access to services, and broaden the delivery of services available to low-income clients. During the reporting period, LSC provided technical assistance to seven (7) states to assist them in planning and implementing the structural and service delivery changes necessary to achieve State Planning goals. Finally, LSC staff traveled to fourteen (14) states to conduct evaluative and planning meetings with grantees and state equal justice planning bodies.

During the reporting period, LSC continued work on other initiatives to support its grantees and to improve the quality and accessibility of services, including the use of technology to promote and facilitate access to legal services. It has provided a range of technological assistance to programs during the reporting period, and it has focused particular attention on projects designed to increase substantially access to legal services, such as training grantees on the use of technology and technological projects that assist *pro se* litigants.

¹ Those states are Alabama, Mississippi, Missouri and North Dakota.

² 'Programs', 'recipients', and 'grantees' are used interchangeably in this report to refer to recipients of LSC funding.

Some of LSC's additional efforts during the reporting period include attempts to address the special problems of indigent persons in rural communities; continued program visits to discover innovative procedures that may serve as models for other programs; work with newly reconfigured service areas to ensure the development of comprehensive delivery systems throughout enlarged geographic areas; attempts to measure non-case work provided by grantees; and attempts to address the large student debt loads that frequently dissuade new lawyers from pursuing careers in legal services programs. LSC also continues to monitor its grantees for compliance with federal law and LSC regulations, working closely with the Office of Inspector General.

BACKGROUND

Legal Services Corporation

The Legal Services Corporation is a private, non-profit corporation established in the District of Columbia by the Legal Services Corporation Act of 1974, as amended (the “LSC Act”),³ to provide financial support for legal assistance in civil proceedings to persons unable to afford legal services. LSC is governed by an eleven-member bipartisan Board of Directors appointed by the President of the United States with the advice and consent of the Senate. The Board appoints LSC’s President, who serves as the Corporation’s chief executive officer, subject to general policies established by the Board.

The 1988 Amendments to the Inspector General Act of 1978 (“the 1978 Act”) required LSC to establish an Office of Inspector General (“OIG”) and extended specific provisions of the 1978 Act to LSC. Accordingly, such an office was established by and for LSC. The Inspector General is appointed by, reports to, and serves under the general supervision of, LSC’s Board of Directors.

Funding and Grant-Making Activities

LSC provides funding to legal services programs serving indigent persons throughout the 50 states, the District of Columbia, Puerto Rico, the U.S. Virgin Islands, Guam and Micronesia. To carry out the purposes of the LSC Act, LSC received an appropriation of \$336,646,000 for Fiscal Year (“FY”) 2003. (This figure represents the total appropriation after a .65 percent across-the-board rescission.) LSC has requested an appropriation of \$352,400,000 for FY2004, which represents a 4.4% increase over the FY2003 appropriation. LSC has proposed this modest increase to respond to the increased poverty population in its service areas. The most recently released Census data reflects a 5.74% increase in the number of poor people eligible for LSC-funded services between 1990 and 2000, but LSC’s annual appropriations have not kept pace with this increase in the number of eligible clients.

³ 42 U.S.C. §§ 2996-2996l.

MANAGEMENT INITIATIVES

During this reporting period, LSC continued its efforts to improve the efficiency of its competitive grant award system and the effectiveness of the delivery of legal assistance through its initiative for statewide planning and coordination of legal services. The Corporation continued to demonstrate its ability to ensure both compliance with program rules and regulations, and the maintenance of high quality legal assistance to eligible clients.

State Planning

LSC continues to promote efforts by its grantees to develop comprehensive, integrated delivery systems that reach a greater number of persons, with a broader range of services. The State Planning initiative requires grantees to work with other providers and stakeholders within each state, such as the courts, bar associations and client groups, to assure that a full range of high quality legal services are available to clients regardless of their geographical location within a given state.

During the reporting period, LSC approved structural changes in Alabama, Mississippi, Missouri and North Dakota.⁴ These changes will promote more effective systems for the provision of legal services to low-income clients. In addition, LSC staff worked with the following four (4) states considering similar changes: Massachusetts, Minnesota, Oregon and South Dakota. The consolidation of service areas and programs enables recipients to take advantage of economies of scale, to more evenly distribute access to services and to broaden the availability of legal services to low-income individuals and families. Since 1998, the number of LSC grantees has been reduced from 262 to 160 through the State Planning process.

LSC has continued to make technical assistance available to help states plan and implement the structural and service delivery changes necessary to reach State Planning objectives. During the reporting period, the following seven (7) states received technical assistance: Alabama, Arkansas, Massachusetts, Mississippi, Missouri, Washington and West Virginia. Alabama was given a planning grant that led to a decision by the designated State Planning body to restructure the delivery system in Alabama. The Arkansas Bar Association was granted funds to strengthen its Access to Justice commission with a focus on resource development. Massachusetts, Mississippi and Missouri were all given planning and merger grants. West Virginia was granted funds to expand resources and establish a private bar campaign. Washington was given funds for statewide technology planning.

⁴ Alabama is consolidating three basic field programs into one; Mississippi is merging five programs into two; Missouri is combining four programs into one statewide program; and North Dakota is consolidating two basic field programs into one.

During this period LSC staff traveled to the following fourteen (14) states to conduct evaluative and planning meetings with grantees and state equal justice planning bodies: Alabama, Hawaii, Kentucky, Massachusetts, Minnesota, Mississippi, Missouri, Nevada, New York, Oklahoma, Oregon, South Dakota, Virginia and Washington. These visits varied in length from several days to a week. Such visits inform LSC of the progress being made in these states, as well as the challenges that these states must overcome. The visits also provide grantees and their partners with practical information about achievements in other jurisdictions, innovative ideas, and LSC's expectations with regard to State Planning.⁵

LSC staff attended the regional meeting of the mid-west grantees in Chicago to discuss the State Planning process and answer grantees' questions about the process.

LSC also sponsored an invitation-only Rural Issues and Delivery Symposium in Nebraska at the end of October 2002. The symposium served as LSC's first national conversation focusing on the challenges facing rural areas. Attendees of the conference included grantees with expertise in rural *pro bono*, Native American delivery, and minority and family farmer advocacy. The Symposium was attended by clients and stakeholders from the courts, and academic and policy institutions focused on rural poverty issues. A written report on rural delivery issues and the Symposium was presented to the LSC Board on April 25, 2003.

Earlier this year, LSC initiated the development of an evaluation instrument designed to assess the success of its grantees' State Planning efforts. The instrument sets forth the criteria and measures that LSC will use to evaluate the effectiveness of the civil legal services delivery system within each state. Evaluations will also establish benchmarks against which further progress can be measured and allow LSC to begin to gather data to compare state delivery systems.

During this reporting period, LSC tested the instrument in Washington and Kentucky. The tests indicated that the instrument was a valid evaluation tool, but that it needed some adjustments and changes. Those adjustments have been made and the instrument will be tested for a third time in Ohio in May 2003. LSC plans to begin using the instrument as a formal evaluation tool later this year.

These efforts, when taken together, have resulted in significant, positive changes for low-income clients throughout the country, including the development of additional resources for civil legal services, new and more efficient ways of providing legal information and advice to low-income persons, alternative ways to serve the rural poor, and more effective and economical structures to assure equal justice to a greater number of Americans.

⁵ Following each visit by a member of the State Planning team, it is customary for LSC to send a letter to the designated State Planning body and LSC grantees within the state noting LSC's concerns, if any, and making suggestions for "future action." These letters are maintained at LSC and are available upon request.

Work with Newly Reconfigured Programs

LSC continues to work with programs serving newly-configured service areas. Newly reconfigured programs face different types of problems depending on whether the current grantee is the product of a merger or is taking over a new service area. Merged programs must meld the systems and cultures of two or more prior organizations, including the adjustment of job duties and salaries, and the establishment of priorities. A program taking over a new service area must ensure sufficient staffing for the new area, secure office space, and assume responsibility for unfinished cases of the prior grantee. Extensive outreach is also usually necessary to integrate the program into the new service area. To ensure that grantees are making significant progress in achieving comprehensive delivery systems throughout larger service areas, LSC attached special grant conditions to FY2003 grants. These grant conditions require the submission of periodic, written reports on specific aspects of comprehensive delivery systems. LSC has closely analyzed these reports and provided written and oral feedback to each grantee.

Competition

LSC's competitive grants process remains responsive to the Congressional requirement to award grants through a system of competition and to assure the most efficient and effective delivery of services to the client community. The competition process continues to evolve into an ever more useful tool for capacity building within the legal services delivery structure, for identifying areas for further improvement, and for networking legal services programs.

The competitive grants process is now fully automated, permitting analysis of a continuous stream of current information on legal needs, response strategies, and administrative and management systems. As a result, LSC can develop greater intelligence about the many strengths and potential weaknesses in the delivery system. Model program initiatives, advances in technology, programs' diversity and training strategies and new client-centered delivery strategies are being identified through the competition process so that they can be shared and replicated by legal services programs throughout the country.

During this reporting period, ninety-seven (97) service areas were in competition in 28 states, the District of Columbia, Guam, Micronesia, Puerto Rico and the Virgin Islands. In December 2002, ninety-five (95) grants were awarded. The application of a sole applicant for one Ohio service area (OH-19) was rejected. This service area was re-competed early in 2003, and a grant award decision will be announced during the second quarter of 2003. The sole applicant in the initial competition was rejected because its plan to deliver services was skeletal and proposed to subgrant the entire award to another entity indefinitely. The only applicant to apply during the re-competition presented a detailed plan that was well rated by the reviewer.

LSC received multiple applications for the Michigan service area known as MI-14. LSC staff and consultants conducted a capability assessment visit to the competitors

in January. LSC announced the grant award to the Legal Services of Eastern Michigan in March.

For the first time, LSC provided each successful 2003 grant applicant with a written assessment of its grant application. The purpose of this assessment was to provide feedback to the programs on their strengths and weaknesses with the primary goal of improving programs' performance. This assessment was also intended to improve the quality of future grant applications. LSC's feedback letters were well received by the programs.

LSC is working to improve the competition process through simplification efforts and refinements to the Request For Proposals ("RFP"). Notwithstanding these changes, LSC continues to collect the applicant information necessary to maintain high quality, client-centered legal services delivery. An overview of the competitive grants process, the RFP, application instructions, resource materials, and key competition dates are available at www.ain.lsc.gov. The documents can be accessed by clicking on "Bulletin Board" from the home page of the website.

Program Visits

During the reporting period, LSC continued visiting programs to assess quality, provide technical assistance, assess progress in achieving a comprehensive delivery system in recently reconfigured service areas, address problems, evaluate innovative procedures which may serve as models for other programs, and communicate LSC's expectations directly to grantees. These visits reaffirmed LSC's belief that such visits expand its understanding of programs' activities otherwise gleaned from competition applications, grant activity reports, and anecdotal information.

LSC deliberately follows up on program visits it has made in the past. Typically, LSC staff call programs to check on progress with planned changes. Additionally, after program visits, LSC often provides programs with innovative practice materials to assist in improving the effectiveness of their delivery systems. In this reporting period, LSC returned to a program it had originally visited in 2001 to gauge the program's progress.

From October 1, 2002, through March 31, 2003, the Vice-President for Programs and/or Office of Program Performance ("OPP") staff and consultants visited the following six (6) programs: Atlanta Legal Aid; Legal Aid Society of Hawaii; Nevada Legal Services; Bay Area Legal Services (Tampa); Nebraska Legal Services; Community Legal Services, Inc. (Arizona); and MidPenn Legal Services, Inc. Staff also attended three statewide meetings in New Mexico, Kentucky, and Oklahoma. (These visits were in addition to State Planning and technology visits reported elsewhere in this report.) OPP staff visits involved a review of program operations including the establishment of priorities, intake systems, legal work management and supervision, governance, Private Attorney Involvement, resource development, and strategic planning, to evaluate the efficiency and effectiveness of programs. Following an OPP staff visit, it is customary

for LSC staff to send a report or letter to the program with findings and recommendations. These letters are maintained at LSC and are available upon request.

Technology Efforts

The primary purpose of the Technology Initiative Grants program (“TIG”) is to harness technology to assist programs in providing assistance to low income persons who would not otherwise receive legal assistance. This is accomplished by means of technologically enhanced *pro se* and community legal education efforts and also by enhancing state justice systems’ technology infrastructures to allow centralized telephone intake and delivery systems and to allow greater coordination among programs.

During the reporting period, projects funded by the 2002 TIG program were successfully implemented, and the 2003 grants application cycle was announced. LSC staff made program visits both in connection with monitoring TIG grants, and as participants in quality assurance visits discussed above in the “Program Visits” section of this report. LSC held a 2002 TIG conference and staff participated as trainers in several other technological training events. LSC’s strategic planning efforts produced a TIG Program Status Report and resulted in the computerization of the TIG application system and Milestone Reporting System.

2002 TIG Conference

Each year the TIG program holds an annual conference to train and educate new grant recipients. This is a unique national forum on technology for the legal services community. Sessions focus on project planning; collaboration within the state justice community; client access; quality of service; and innovative technologies available in the legal services community. The conference also serves as an opportunity for peers to network, learn ‘best practices,’ and gain support from others who have implemented similar projects or have experienced comparable challenges. The 2002 TIG conference was generously hosted by the Chicago Kent Law School in October. Ninety-five (95) attendees were offered the opportunity to acquire specialized knowledge in one of the following three areas: Innovation/Integration; Statewide Web Sites or State Planning Technology. The Plenary sessions for all attendees included information on: literacy; language; disability and access issues; demonstrations of pioneering technology solutions; tools for evaluation; and sustainability.

Training Events

LSC staff participated in multiple, technological training events during the reporting period. At the National Legal Aid and Defender Association (“NLADA”) conference in November 2002, LSC staff made presentations on the topics of “Case Management,” attended by 20 people, and “The Future of Technology,” with 35 people in attendance. LSC hosted a “Cyber Café” at the conference, which provided grantees with an opportunity to discuss technological developments with LSC staff, and which also provided all attendees with internet access during the conference. Additionally, LSC

staff provided a day of training to Legal Action of Wisconsin to assist the program with technological issues and planning.

In January 2003, LSC staff participated in a meeting at the Chicago-Kent Law School to discuss the issue of electronic filing and its impact on low-income populations. Based on its experience with TIG-funded *pro se* projects, LSC shared its knowledge and perspective on electronic filing, and discussed the necessity of ensuring that low-income persons are not further excluded from the justice system through court or legislative mandates that require electronic filings.

During the reporting period LSC technology staff made presentations at the following conferences:

- October 2002 – Australian Institute of Judicial Administration Technology Conference
- March 2003 – Technology Funders Summit

2003 Grants Application Cycle

Based on feedback from a 2002 TIG Summit Meeting, LSC made substantial revisions to the 2003 TIG Request for Proposals (“RFP”). Updates were made to improve clarity of the document, to develop categories that continue to expand access and quality of service for clients, and to address the technology needs of LSC programs. The categories of potential projects in the 2003 TIG grants cycle include: Statewide Technology; State Plan Implementation; *Pro Se* Projects; Access Projects; Statewide Web Sites; and Special Projects. Special projects include: Integrated Intake Systems; E-Filing; Website Sustainability Research Projects; ‘Technology as a Management Tool’ Research and Demonstration Projects; and Training and Technical Assistance.

TIG Status Report

In March 2003, LSC staff published a report entitled *Using Technology Innovations to Strengthen Delivery Systems of State Justice Communities: Technology Initiative Grant Programs Status Report*. This document addresses the goals of the TIG program, specific initiatives that improve and increase client services, lessons learned in the first two years of the program, and future directions of the TIG grants. The report can be viewed at http://lri/abstracts/030066/032403_TIGrptf.pdf.

Program Visits

During the reporting period, LSC visited the following six (6) programs in connection with specific TIG projects: Indiana Legal Services, Inc.; North Penn Legal Services, Inc.; Puerto Rico Legal Services, Inc.; Nevada Legal Services, Inc.; New Mexico Legal Aid; and Bay Area Legal Aid.

Computerization of the TIG Application Process

To ensure that the TIG grant management and application processes run efficiently and cost effectively, LSC has automated the processes. As a result, future TIG applicants will submit their applications electronically. The automated system will allow applicants to enter most information into an online database. Application materials that cannot be entered into the system -- such as letters of support -- can be scanned and uploaded for review. The automated application process will eliminate the need for LSC staff to perform data entry from paper applications, and it will integrate application information into the automated system being developed for grant reviewers.

Milestone Reporting System

The TIG program is administered in a way that makes incremental payments based on grant progress, rather than making lump sum awards to recipients at the outset of the grant cycle. Specific tasks are assigned to each payment and the complete set of tasks or 'milestones' must be completed before additional funding is made available. At the end of 2002, LSC designed and developed an online application that allows grantees to submit progress reports on their grants through a website, www.lscopp.com.

Training

Two (2) of the recently issued TIG awards promote training among members of the legal services community. The first grant to Legal Services Law Line of Vermont, Inc. will make available nationally, through technology, the core curriculum of the Legal Services Training Consortium of New England, and provide a platform for other legal services organizations to provide distance learning opportunities. The second grant to Legal Aid Society of Orange County creates a national technology training and curriculum project to build capacity across many audiences within the legal services community, as a means to improve the implementation of model technology innovations that improve justice for low-income clients.

Performance Measures/Outcomes for Clients

LSC has undertaken an outcomes measurement project – the third in a three-part effort to expand how LSC measures services provided by grantees. The first measurement, which assesses “matters” (i.e. non-case work that programs do for clients), has been designed and implemented. The second measurement, which is a State Planning evaluation process that gauges the progress and results of the State Planning initiative in each state, has been built and tested and will soon be implemented. The third measurement is the ‘outcomes project,’ which will gauge the effect of grantee work on clients. This project will measure how well LSC is performing its statutory mandate to ensure effective and efficient delivery of services.

LSC has hired a consultant to conduct the research phase of the outcomes measurement project. The consultant has interviewed more than 80 people, both within legal services and in other disciplines, to gather input and insight about how to measure outcomes for clients. The consultant is also researching outcomes and performance measures currently used in legal services and in other disciplines. As part of the completion of this project, LSC and the Hale and Dorr Legal Services Center at Harvard Law School will co-sponsor a Summit on Performance Measurement and Quality Assessment on June 21, 2003. The Summit will gather a small group of people from around the United States and the United Kingdom (“UK”), to discuss, among other things, the consultant’s preliminary findings as well as ‘best practices’ in the UK. The consultant’s final report will be completed by September 2003. Upon receipt of this report, LSC will determine how to further proceed with this project.

Matters

During the last six months of 2001, LSC implemented the Matters Service Reports (MSR) to enable grantees to report services they perform that do not rise to the level of cases. In October 2002, LSC issued Program Letter 02-9, which outlined revisions to the Matters Service Reports. The online system for reporting Matters was modified to reflect these changes, and in January 2003 a list of frequently asked questions was posted on this system to help grantees prepare and report matters.

The online reporting system is functioning smoothly, and LSC received MSRs from grantees for 2002 with no problems. LSC’s internal committee on Matters plans to review the 2002 data to discern whether further refinements are needed, and it will then prepare reports that describe the non-case work performed by grantees.

Diversity, Inclusion and Multi-Cultural Competency

LSC continues to make progress in the area of diversity, inclusion and multi-cultural competency. During the reporting period, LSC produced a manual for experienced facilitators, which may be used in conjunction with an educational resource created by LSC last year, to inform grantee boards of directors (“boards”) about the importance of diversity in providing the highest quality client services. The new manual conveys the most appropriate ways to structure productive diversity conversations with legal services boards. A recent LSC educational event for experienced trainers relied on the manual to produce a cadre of individuals who are now competent to work with LSC boards on this significant issue.

LSC leadership continued to emphasize the importance of multi-cultural competency in communications with grantees. During the reporting period, LSC’s Vice President for Programs participated in Oklahoma’s first state justice community diversity symposium, an event that attracted several hundred attorneys and advocates. Keynote speeches in other states have featured diversity issues, and an article on diversity by LSC staff was featured in a national legal services publication.

Loan Repayment Assistance Program

Many new attorneys are dissuaded from joining a legal services program because of the heavy debt they incur to attend law school.⁶ LSC is working with the American Bar Association's Commission on Loan Repayment and Forgiveness to examine and report on the effect of the increasing educational debt of law school graduates on the legal profession, and specifically, the effect of such debt on new graduates interested in pursuing careers in public interest law. This year the Commission's work focused on devising solutions to mitigate the debt burden.

Implementation of 2000 Census and Harkin-Smith Amendment

LSC's appropriation act requires that it distribute funds for each geographic area on a per capita basis relative to the number of individuals in poverty determined by the Bureau of the Census to be within a given geographic area. The Bureau of Census released the 2000 Census poverty population data in the summer of 2002. Operating under a Continuing Resolution, LSC funded all Basic Field grantees based on the 2000 Census data, which caused 82 grantees to lose funding as a result of shifts in poverty populations identified by the Census data. In order to mitigate decreases in funding to programs stemming from the 2000 Census data, the Senate adopted an amendment offered by Senators Tom Harkin (D-Iowa) and Gordon Smith (R-Oregon) to LSC's appropriations legislation to increase LSC funding by \$19 million for FY 2003. The House version contained no such increase. The Conference Report, adopted in February 2003, included a \$9.5 million addition to LSC's appropriation

As passed, the Harkin-Smith Amendment would have returned to each grantee facing a funding loss 50.8% of the scheduled decrease. However, in the final appropriation, there was a 0.65% across-the-board rescission of all LSC funding lines. Consequently, the programs that lost funding are receiving a return of 50.15% of their lost funding (i.e. 50.8% minus the 0.65% rescission) rather than the 50.8% envisioned by the Harkin-Smith Amendment.

Rulemaking Activities

During the reporting period, LSC issued a Notice of Proposed Rulemaking to consider revisions to its regulations on Procedures for Disclosure of Information under the Freedom of Information Act, at 45 CFR Part 1602. After the close of the comment period, LSC drafted and adopted final revisions making several technical amendments to the regulation.

Three additional rulemakings remain open. Work continued on rulemakings to consider revisions to LSC's regulations on: the Outside Practice of Law (by full-time

⁶ According to the American Bar Association, the median amount borrowed by private law school graduates in 2002 was \$70,147. One private lender estimates that the median law school debt for 2001 graduates was \$84,400.

attorneys working for LSC grant recipients), appearing at 45 CFR Part 1604; financial eligibility, appearing at 45 CFR Part 1611; and restrictions on legal assistance to aliens, appearing at 45 CFR Part 1626. However, no final action was taken on any of these three regulations.

Litigation Update

On November 15, 2002, the United States District Court for New Jersey signed an order dismissing *Passaic County Legal Aid Society v. Legal Services Corporation, Legal Services of New Jersey, Randi Youells and Melville Miller*, Civil Action No. 02-3866 (D.N.J.). This was a case in which a former grantee challenged LSC's State Planning process, claiming that the process violated the former grantee's due process rights and the LSC Act. The former grantee requested a preliminary injunction to prevent LSC from ceasing to fund it pursuant to the State Planning process. Ruling from the bench at the preliminary injunction hearing, the judge dismissed all counts of the former grantee's Complaint.

Work of the Office of Compliance and Enforcement

The Office of Compliance and Enforcement ("OCE") is charged with a number of functions to ensure that recipients are in compliance with the LSC Act and Regulations. These obligations currently include compliance investigations, prior approvals of some expenditures and activities by grantees, on-site visits to scrutinize compliance with regulations and the provision of training to recipients.

On-Site Reviews

From October 1, 2002, to March 31, 2003, OCE conducted on-site visits at the following twenty (20) programs:

- *Alaska Legal Services Corporation*: The purpose of this visit was to assess the recipient's compliance with Case Service Reporting (CSR) and Case Management Systems (CMS). A draft report based on the visit has been sent to the program, and OCE is awaiting a response.
- *Central Virginia Legal Services*: The purpose of this visit was to follow up on the recipient's compliance with findings made during a prior CSR/CMS review. A draft report is being reviewed and will soon be issued to the program.
- *Colorado Legal Services*: The purpose of this visit was to conduct an Accountability Training and Technical Assistance Review. A CSR/CMS Review will also soon be scheduled with this program.
- *Community Legal Aid Services*: The purpose of this visit was to assess the recipient's compliance with CSR and CMS. A draft report based on the visit has been sent to the program, and OCE is awaiting a response.

- *Essex-Newark Legal Services Project, Inc:* The purpose of this visit was to follow up on the recipient's compliance with findings assessed during a prior CSR/CMS review. LSC sent a Final Report to the program regarding this review, and the program sufficiently addressed all findings contained in the Report, including findings regarding eligibility, CSR reporting and Private Attorney Involvement.
- *Land of Lincoln Legal Assistance:* The purpose of this visit was to assess the recipient's compliance with CSR and CMS. A draft report based on the visit has been sent to the program, and OCE is awaiting a response.
- *Legal Aid and Defender Association:* The purpose of this visit was to conduct an Accountability Training. The work of the visit is complete and no additional follow up is required.
- *Legal Aid of North Carolina:* This visit was conducted in order to assess the recipient's compliance with the requirements of 45 C.F.R. Part 1610. The purpose of the stated regulation is to ensure that recipients maintain integrity and independence from organizations that engage in restricted activities. A report on this visit has been finalized and the program was found to be in compliance with the regulation.
- *Legal Aid Society of Cleveland:* The purpose of this visit was to assess the recipient's compliance with CSR and CMS. A draft report based on the visit has been sent to the program, and OCE is awaiting a response.
- *Legal Aid Society of Northeastern New York:* The purpose of this visit was to assess the recipient's compliance with CSR and CMS. A draft report based on the visit has been sent to the program, and OCE is awaiting a response.
- *Legal Services of Cape Cod and Islands:* The purpose of this visit was to follow up on the recipient's compliance with findings assessed during a prior CSR/CMS review. The program has made substantial progress in the area of CSR, CMS and oversight of cases. It was determined that the recipient is in substantial compliance with LSC regulations.
- *Legal Services of Central New York:* The purpose of this visit was to assess the recipient's compliance with CSR and CMS. A Final Report was issued on April 23, 2003.
- *Memphis Area Legal Services:* The purpose of this visit was to assess the recipient's compliance with CSR and CMS. A draft report based on the visit has been sent to the program, and OCE is awaiting a response.
- *MFY/Legal Services of New York City:* The purpose of this visit was to conduct a Complaint Investigation. The investigation is ongoing.

- *Neighborhood Legal Services Program*: The purpose of this visit was to conduct an Accountability Training. No additional follow up is required.
- *North Mississippi Legal Services*: The purpose of this visit was to assess the recipient's compliance with CSR and CMS. A Final Report on this visit was issued. OCE will schedule a follow up visit to confirm that suggestions for improvement contained in the Final Report were implemented.
- *Oklahoma Indian Legal Services*: The purpose of this visit was to assess the recipient's compliance with CSR and CMS. A draft report based on the visit has been sent to the program, and OCE is awaiting a response.
- *South Carolina Centers for Equal Justice*: The purpose of this visit was to conduct a Complaint Investigation. The on-site visit was concluded, and the investigation is ongoing pending OCE's complete review of documentation related to the complaint.
- *South Mississippi Legal Services*: The purpose of this visit was to assess the recipient's compliance with CSR and CMS. A Draft Report was issued to the program and OCE has since received the program's comments on the Draft Report. OCE expects to issue a Final Report in the near future.
- *Southeast Mississippi Legal Services*: The purpose of this visit was to assess the recipient's compliance with CSR and CMS. OCE issued a Draft Report to the program and has since received the program's comments on the Draft Report. OCE expects to issue a Final Report in the near future.

A-50 Follow-Up

During the noted period, twelve (12) audit findings were referred to LSC management by the Office of the Inspector General ("OIG") for follow-up assessment, pursuant to the requirements of OMB Circular A-50. LSC management has closed all noted findings based on documents submitted by the programs evidencing that corrective action has been taken.

Prior Approval Under 45 C.F.R. Part 1630

During the reporting period OCE reviewed and approved fifteen (15) requests to purchase, lease or renovate personal, non-expendable property or real property pursuant to the requirements of 45 C.F.R. Part 1630. LSC approved thirteen (13) such requests totaling \$689,891 for purchase or lease of personal, non-expendable property, and it approved two (2) requests totaling \$113,386 for the purchase or renovation of real property.

Private Attorney Involvement Under 45 C.F.R. Part 1614

LSC's Private Attorney Involvement ("PAI") regulation, 45 C.F.R. Part 1614, requires that all recipients devote an amount equal to at least 12.5% of their respective Basic Field Grants to involve private attorneys in the delivery of legal assistance to eligible clients. A provision of this regulation (i.e. 45 C.F.R. § 1614.6) allows recipients to request either a partial or complete waiver of this requirement in circumstances in which they have been unable to meet the obligation during a given year. If a recipient's circumstances warrant a waiver, OCE will either waive the requirement and adjust the requirement for that year by the amount of the shortfall, or increase the next year's requirement by the amount of the shortfall.

During the reporting period, OCE granted ten (10) waiver requests pursuant to 45 C.F.R. ' 1614.6. Most requests for waivers were made under §1614.6(c)(3) where grantees were unable to spend the required amount due to State Planning which resulted in newly merged programs with larger PAI requirements and/or resultant mixed delivery systems. Other reasons for waivers included a lack of attorneys in certain service areas that prevented grantees from meeting the 12.5% requirement (§1614.6(c)(2)), a determination by recipient boards that their respective programs could not economically and efficiently spend 12.5% of their Basic Field Grants on PAI (§1614.6(c)(6)), or situations in which private attorneys participating in fee-for-services programs had not billed the relevant programs for services rendered by the end of the fiscal year (§§1614.6(c)(5)or(6)).

All follow-up on PAI compliance is conducted during the review of the recipient's audit report for the following grant year and if necessary, the PAI program is reviewed as part of the CSR/CMS review.

Subgrants Under 45 C.F.R. Part 1627

Pursuant to 45 C.F.R. ' 1627.1, a recipient may subgrant a portion of its LSC funding to another entity to conduct certain activities related to the recipient's programmatic activities. Such activities include those that would otherwise be undertaken by the recipient itself, such as representation of eligible clients, or activities which provide direct support to a recipient's legal assistance activities, such as a PAI component.

OCE approved fifty-eight (58) recipient subgrants during the noted time period.

Fund Balances Under 45 C.F.R. Part 1628

LSC recipients whose annual audits report fund balances in excess of 10 percent (10%) of their total LSC annualized support, are required to request a waiver from LSC pursuant to 45 C.F.R. ' 1628.4, in order to carry over the excess balance to the following year. Recipients may request a waiver to retain fund balances in excess of 25% of LSC support only for extraordinary and compelling reasons. In the absence of a waiver, LSC is required to recover the excess fund balance pursuant to 45 C.F.R. ' 1628.3.

During the reporting period, OCE reviewed and approved four (4) fund balance waiver requests totaling \$174,699. Reasons for granting waiver requests included the following:

- (a) unplanned or unexpected staff attrition that caused an unusual reduction in personnel costs, thus increasing the fund balance;
- (b) an unexpected increase in funding, either from LSC or non-LSC sources that made it difficult for the program to spend its LSC grant funds economically during the previous year; and
- (c) the need for programs to retain cash reserves for payments to private attorneys who provide legal assistance to eligible clients on a contract basis.

In addition, pursuant to Program Letter 02-7, a waiver of excess fund balances for the year 2002 may be granted to ameliorate the decrease in funding to certain programs resulting from implementation of 2000 Census data.

When OCE grants a fund balance waiver, it informs the relevant program that the excess fund balance should be reported separately in the recipient's next audit, either as a separate fund or by a supplemental schedule in the audit report. The separate reporting is by line item to show exactly how the excess fund balance was spent. OCE ensures that the excess fund balance is reported appropriately through its review of the recipient's annual audit.

Complaint Investigations

OCE is responsible for the review, investigation and disposition of complaints filed by members of the public (e.g. applicants, clients, local recipients, staff and Board members, opposing counsel/parties, taxpayers, etc.) related to the activities of LSC recipients. During the reporting period, 40 complaints were opened and 15 were closed. The majority of the complaints opened during the reporting period involved denial of services (i.e. complaints from applicants who were financially ineligible, outside of program priorities, or requesting assistance with fee-generating cases or other cases prohibited by Congressional restrictions). Other categories of complaints opened during the reporting period included those related to inadequate representation; complaints about fee-generating cases; complaints against program management; and complaints related to harassment, outside practice of law, or eligibility for services. As of March 31, 2003, twenty-five complaint investigations remained open.

Audit Reports

The fiscal year cycle adhered to by LSC grantees differs among grantees. While the majority of grantees operate on the fiscal year cycle that ends on December 31st of each year, others adhere to cycles that end on January 31st, March 31st, May 31st, June 30th, or September 30th respectively. LSC grantees must submit their audit reports (including audited financial statements) to LSC within 120 days of the end of their respective fiscal years.

LSC's Office of Inspector General ("OIG") ensures that all grantees submit their audit reports to LSC in a timely fashion. OCE then reviews the audited financial statements for compliance with the *Accounting Guide for LSC Recipients* (issued in August 1997) and LSC financial-related regulations (i.e. 45 C.F.R. Parts 1610, 1614, 1627, 1628, 1630, 1631, and 1642).

After the OIG processes grantees' audit reports in its audit tracking system (AIMS), a copy of each grantee's audit report is sent to OCE.⁷ During the reporting period, OCE reviewed 117 audit reports forwarded to it by the OIG. By mid-August 2003, all audit reports with fiscal-year-ends in 2002 will be reviewed by OCE. For the last two years, all grantees' audited financial statements have been found to be in compliance with LSC financial guidelines.

⁷ Pursuant to requirements imposed by LSC's 1996 appropriations act and carried forth in each subsequent appropriations act, auditors of LSC grantees must test grantee transactions for compliance with LSC regulations and report all instances of noncompliance to the recipient. Within five (5) business days thereafter, grantees must report all instances of noncompliance reported by the auditor to the OIG.

TABLE 1

**Management Report on
Office of Inspector General Audits of Grantees
Issued With Questioned Costs
For the Six Month Period
Ending March 31, 2003**

| | Number of Reports | Disallowed Costs |
|--|----------------------|---------------------|
| A. Audit Reports for which final action had not been taken by the commencement of the reporting period. | 0 | \$0 |
| B. Audit Reports on which management decisions were made during the reporting period. | 0 | \$0 |
| Subtotals (A + B) | 0 | \$0 |
| MINUS: | | |
| C. Audit Reports for which final action was taken during the reporting period: | 0 | \$0 |
| (i) Dollar value of disallowed costs that were recovered by management through collection, offset, property in lieu of cash, or otherwise. | 0 | \$0 |
| (ii) Dollar value of disallowed costs that were written by management. | 0 | \$0 |
| D. Audit Reports for which no final action has been taken by the end of the reporting period. | 0 | \$0 |
| Audit Reports for which no final action had been taken within six months of issuance | 0 | \$0 |

TABLE 2

**Management Report on Audit Reports Issued During
The Six Month Period Ending March 31, 2003,
With Recommendations That Funds Be Put to Better Use By Management
Agreed to in a Management Decision**

| | Number of Reports | Dollar Value |
|--|----------------------|-----------------|
| A. Audit Reports for which final action had not been taken by the commencement of the reporting period. | 0 | \$0 |
| B. Audit Reports on which management decisions were made during the reporting period. | 0 | \$0 |
| Subtotals (A + B) | 0 | \$0 |
| MINUS: | | |
| C. Audit Reports for which final action was taken during the reporting period: | 0 | \$0 |
| (i) Dollar value of recommendations that were actually completed. | 0 | \$0 |
| (ii) Dollar value of recommendations that management has subsequently concluded should not or could not be implemented or completed. | 0 | \$0 |
| D. Audit Reports for which no final action has been taken by the end of the reporting period. | 0 | \$0 |
| Audit Reports for which no final action had been taken within six months of issuance. | 0 | \$0 |